

"Approved by the City Council/Redevelopment Agency Board on January 26, 2009"

CITY COUNCIL/REDEVELOPMENT AGENCY/
PUBLIC FINANCING AUTHORITY MINUTES
OF A REGULAR MEETING

WESTMINSTER, CALIFORNIA
December 10, 2008

The City Council/Agency Board/Authority Board of the City of Westminster, California convened on December 10, 2008 at 7:05 p.m. in a Regular Meeting in the Council Chambers, 8200 Westminster Boulevard, Westminster, California.

7:00 P.M.

CALL TO ORDER: 7:05 p.m.

ROLL CALL:

PRESENT: RICE, QUACH, FRY, MARSH, TA
ABSENT: NONE

SALUTE TO FLAG: Council Member Marsh

INVOCATION: Chaplain Charlie Wilkins

SPECIAL PRESENTATION:

The Mayor and Council Members presented Certificates of Appreciation to the judges and Certificates of Commendation to the participants in the 2008 18th Annual Holiday Home Decorating Contest. The homes with the highest overall score in each area were presented with a \$50 Target gift card.

REPORT FROM CITY CLERK ON LATE COMMUNICATION ITEMS

The City Clerk announced Late Communications regarding agenda items that had been received in the City Clerk's office following the distribution of the agenda packet.

Consent Calendar

Item No. 1.3 – Bid Solicitation Process for Construction of New Police Building (702-08)

Staff is recommending approval of this item with a language change in the Instructions for Prequalifications Questionnaire (pages 1-3) inserting the phrase "The City of Westminster" in place of "McCarthy" to clearly indicate it is the City of Westminster that is the final authority for bidder qualification on the new police building project.

Matters from City Manager/Executive Director

Item No. 6.4 – Approval of the form of Bond Documents, Preliminary Official Statement and Bond Sale Documents for the 2009 Subordinate Tax Allocation Bonds (Police Facility) (107-07)

Staff is recommending that Page No. 4 of Agency Resolution No. 201, Section 10, Subsection (ii) Executive Director Authorized to Establish Final Terms of Negotiated Sale of 2009 Bonds be amended to read as follows: "The final interest rates on various

maturities of the 2009 Bonds, provided that such rates shall result in a true interest cost on the 2009 Bonds of not to exceed 9%” (change is from 7.5% to 9%). It is recommended that the Chair and Agency Board adopt Resolution No. 201 as amended to reflect the change.

1) PROPOSED WATER SERVICE RATE INCREASE FOR FISCAL YEAR 2008-09. (PUBLIC HEARING CLOSED) – (Continued from the November 12, 2008 meeting) (610-01)

RECOMMENDATION: Staff recommends that the Mayor and City Council:

- 1) Approve a 15% rate increase to the commodity portion of the current water rate effective January 1, 2009. Prior to July 1, 2009, following a detailed study of the current water rate structure, and reviewing the water fund contributions to other city operations, staff will recommend a reduced rate to be effective July 1, 2009.
- 2) Adopt Resolution No. 4193 entitled, “A Resolution of the Mayor and City Council of the City of Westminster rescinding Resolution No. 4128 and adopting Administrative Rules and Regulations for the City Water System, Pursuant to the Municipal Code”.

Council Member Marsh stated that he feels that voting on this matter would be inappropriate on the same night that he is leaving office. He would like to decline in participating and request that Council not vote on it until the new Council is seated.

Mayor feels that Marsh should participate on this item, because he has been involved with the ongoing discussions on the Proposed Water Service Rate Increase.

The City Attorney said that the Council could go ahead and vote on the item without Marsh or vote to move it to the second part of the agenda. He informed the Council that Council Member Diep could not participate in voting on the item.

Motion was made by Council Member Fry, and seconded by Council Member Marsh to move Item No. 1 to the end of the Consent Calendar. The motion carried by a 5-0 vote.

2) ADOPTION OF RESOLUTION DECLARING THE RESULTS OF THE GENERAL MUNICIPAL ELECTION HELD ON NOVEMBER 4, 2008 (302-00)

Motion was made by Council Member Fry, and seconded by Council Member Ta to receive and file the City Clerk’s Certificate of Results of the General Municipal Election held on November 4, 2008 and adopt Resolution No. 4203 entitled, “A Resolution of the Mayor and City Council of the City of Westminster, California, reciting the fact of the General Municipal Election held on November 4, 2008, declaring the result and such other matters as provided by law.”

The motion carried by the following vote:

AYES: RICE, QUACH, FRY, MARSH, TA
NOES: NONE
ABSENT: NONE

SPECIAL PRESENTATIONS TO OUTGOING COUNCIL MEMBER KERMIT MARSH

The Mayor and City Council presented Council Member Marsh with a Certificate of Commendation and special gifts from the City.

REMARKS FROM OUTGOING COUNCIL MEMBER KERMIT MARSH

Council Member Marsh stated that it has been an honor and privilege to serve the City of Westminster and its residents.

OATH OF OFFICE

Orange County Supervisor Janet Nguyen administered the Oath of Office to Mayor Margie L. Rice and presented her with a Certificate of Election.

Council Member Fry's son, Michael John Fry administered the Oath of Office to Council Member Frank Fry and presented him with a Certificate of Election.

Michell Steel, elected representative on the State Board of Equalization administered the Oath of Office to Council Member Truong Diep and presented him with a Certificate of Election.

RECESS AND RECONVENE:

At 7:56 p.m., Mayor/Chair Rice recessed the City Council/Redevelopment Agency/Public Financing Authority Meeting, and reconvened at 8:11 p.m.

REMARKS FROM MAYOR AND COUNCIL MEMBERS

Mayor Rice thanked the residents of Westminster for allowing her to serve another two years as Mayor. She stated that she looks forward to continuing to work on the Westminster City/Chamber of Commerce Building, the New Police Facility and street improvements.

Council Member Fry thanked the residents of Westminster for their support in the November Election.

Council Member Diep thanked the residents of Westminster and his family for their support during the Election. He stated that he looks forward to working with the Council.

Council Member Ta congratulated Mayor Rice, Council Member Fry and Council Member Diep on being elected in the November Election. He also thanked the

Council for nominating him for Mayor Pro Tem and wished everyone Happy Holidays.

Council Member Quach thanked the Westminster residents for participating in the November Election. He also thanked the City Staff for their hard work during the last year and commended them on a great job. He also encouraged everyone to shop in the City of Westminster.

ROLL CALL:

PRESENT: RICE, QUACH, FRY, TA, DIEP

ABSENT: NONE

SELECTION OF A MAYOR PRO TEM

Motion was made by Council Member Fry, and seconded by Council Member Quach, to nominate Council Member Ta to serve as the Mayor Pro Tem. There were no other nominations. The motion was carried by a 5-0 vote.

1. CONSENT CALENDAR

APPROVAL OF MINUTES

1.1 (City Council/Redevelopment Agency) Minutes of the Regular Meetings of the City Council/Redevelopment Agency of October 22, 2008, November 12, 2008 and November 26, 2008.

ACTION: Approved.

1.2 Proclamation declaring December 18, 2008 as “A Day Without a Bag” in the City of Westminster. The purpose of the proclamation is to encourage foregoing disposable plastic and paper bags in favor of reusable totes and recognizing the negative impact of plastic bags on the environment. (115-00)(08)

ACTION: Approved.

ROUTINE MATTERS

(ITEM REMOVED AND HEARD SEPARATELY)

1.3 Bid Solicitation Process for Construction of New Police Building. (702-08)

The Deputy City Attorney informed the Council that there was an addendum to this item and suggested that Captain Mitch Waller clarify.

Captain Mitch Waller clarified that in the Instructions for Prequalification Questionnaire (pages 1-3) the phrase “The City of Westminster” should be inserted in place of “McCarthy” to clearly indicate it is the City of Westminster that is the final authority for bidder qualification on the new police building project.

Motion was made by Mayor Pro Tem Ta, and seconded by Council Member Fry to:

- 1) Authorize the Bid Solicitation Process for the construction of the new Police building; and
- 2) Approve the Prequalification Questionnaire contained in the Contractors' Bid Instructions as amended.

The motion carried by a 5-0 vote.

1.4 Notice of Completion for work performed by California Building Evaluation and Construction, Inc. for Drinking Fountain Replacement at City Parks and Civic Center. (502-03)

ACTION: The City Council accepted the subject project and authorized the City Clerk to file a Notice of Completion with the County Recorder's Office.

1.5 Amendment No. 1 to Professional Engineering Design Services Agreement with W.G. Zimmerman Engineering, Inc., to provide additional engineering services (502-26)

ACTION: The Mayor and City Council approved Amendment No. 1 to the professional engineering design services agreement with W.G. Zimmerman Engineering, Inc., in an amount not to exceed \$35,000.00.

1.6 Third Amendment to the Owner Participation Agreement between the City of Westminster/Westminster Redevelopment Agency and The Retail Property Trust, a Massachusetts Business Trust for 1078 Westminster Mall - "City Hall at the Mall". (502-20)

ACTION: The Mayor/Chair and City Council/Agency Board approved the Third Amendment to the Owner Participation Agreement, modifying and extending the existing agreement to September 30, 2013, and authorize the City Manager/Executive Director to execute the document on behalf of the City/Agency.

1.7 Award of Contract for Purchase of an Automated Valve Turning Machine. (502-05)

ACTION: The Mayor and City Council awarded the bid for the purchase of the subject equipment to the low qualified bidder, E.H. Wachs Company, in the amount of \$42,873.73.

ADMINISTRATIVE ITEMS

1.8 Date for Youth in Government Day. (701-04)

ACTION: The Mayor and City Council approved Wednesday, February 25, 2009 for the annual Youth in Government Day program.

- 1.9 Special Event Permit application from Little Saigon Foundation to hold the 16th Annual Christmas Wish Program on Saturday, December 20, 2008 between the hours of 6:00 a.m. and 2:00 p.m. (includes set up and clean up times). The event will take place in the Civic Center Sunken Gardens, 8200 Westminster Boulevard. Applicant estimates the attendance will be 2,000 people throughout the event. (213-02)(LI)**

ACTION: The Mayor and City Council approved the Special Event Permit application subject to the conditions attached to the staff report.

- 1.10 Fee Waiver request from the Community Courts Foundation, West Justice Center Division, to host a Holiday party for Westminster participants and their families in the East/West room of the Community Services building on December 17, 2008 from 9:00 a.m. until 3:00 p.m. (702-06)**

ACTION: The Mayor and City Council approved the fee waiver request as outlined in the fee waiver policy for use of City facilities by Community Groups/Non-Profit Organizations.

- 1.11 Fee Waiver request from Charlie Wilkins, President of Kiwanis Club of Westminster for use of the East/West room in the Community Services building to hold a Christmas gathering for the Kiwanis of Westminster on December 12, 2008. (702-06)**

ACTION: The Mayor and City Council approved the fee waiver request as outlined in the fee waiver policy for use of City facilities by Community Groups/Non-Profit Organizations.

WARRANT REGISTER

- 1.12 (City Council/Redevelopment Agency) Warrant Register dated November 5 through December 2, 2008. (105-09)(08)**

ACTION: Approved.

INFORMATION AND REPORTS

- 1.13 Minutes of the Community Services and Recreation Commission meeting held on April 16, 2008 and October 15, 2008. (104-05)**

ACTION: Received and filed.

- 1.14 Westminster Redevelopment Agency Annual Report for FY 2007-08. (901-04)**

ACTION: Received and filed.

1.15 Minutes of the Cultural Arts Commission meeting held on September 4, 2008. (104-06)

ACTION: Received and filed.

1.16 Minutes of the Youth Committee meeting held on September 10, 2008 and October 8, 2008. (104-17)

ACTION: Received and filed.

1.17 Treasurer's Report – October 2008. (105-08)(08)

ACTION: Received and filed.

1.18 Minutes of the Planning Commission meeting held October 15, 2008 and November 5, 2008. (104-11)

ACTION: Received and filed.

1.19 Community Development Monthly Activity Report – October 2008. (216-01)(08)

ACTION: Received and filed.

Motion was made by Mayor Pro Tem/Vice Chair Quach, and seconded by Council/Agency Member Ta to approve the Consent Calendar with the exception of Item No. 1.3 which was removed for separate consideration. The motion carried by a 5-0 vote.

END OF CONSENT CALENDAR

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2. ORAL COMMUNICATIONS

Mayor John Tran from the City of Rosemead congratulated Mayor Rice, Council Member Fry and Council Member Ta for being elected.

Sandra McClure, Westminster Chamber of Commerce President and Frances Nguyen, Westminster Chamber of Commerce President Elect reported on upcoming events within the City.

Darrell Nolta, Westminster resident commended Council Member Marsh on his excellent service to the City of Westminster. He also spoke in regards to the Orange County Fire Authority and how important it is to the City. He also spoke in regards to the Grand Jury and the grading of restaurants.

3. COMMISSION/COMMITTEE ITEMS SUBJECT TO REVIEW - None**4. PUBLIC HEARINGS - None.**

5. MATTERS FROM COUNCIL/AGENCY/AUTHORITY MEMBERS**5.1 Council/Agency Member Items**

Mayor Pro Tem Ta commended Greg Johnson and the Community Services Department on the Breakfast with Santa.

Mayor Rice commended the Community Services Department on the Christmas Tree Lighting that was held on December 1, 2008. She also spoke in regards to the Senior Luncheon that was held today.

5.2 AB 1234 Reports – None.**1. PROPOSED WATER SERVICE RATE INCREASE FOR FISCAL YEAR 2008-09. (PUBLIC HEARING CLOSED) – (Continued from the November 12, 2008 meeting) (610-01)**

Gary Burton, Westminster resident spoke in opposition to the item. He doesn't agree with the amount of money that is being taken from the Water Fund to pay for items or services that he feels have nothing to do with water.

Dale Bradberry, Westminster resident spoke in opposition to a 15% rate increase. He expressed his concerns about raising the rate while the economy is in such bad shape.

Darrell Nolte, Westminster resident spoke in opposition to the item, because he felt that the numbers being presented have not been justified.

Ray Silver, City Manager explained that the City needed an 8% increase as of July 1, 2008, but since it wasn't approved now there is less net revenues than required by the bond issue that were sold recently for the debt service payment. He explained that because of delay the City is now asking for an increased amount of 15%. He informed Council that there will be a reduced rate effective July 1, 2009.

Council Member Quach suggested that the motion also state that the increased rate sunset on June 30, 2009.

Motion was made by Council Member Quach, and seconded by Council Member Fry to:

- 1) Approve a 15% rate increase to the commodity portion of the current water rate effective January 1, 2009. Prior to July 1, 2009, following a detailed study of the current water rate structure, and reviewing the water fund contributions to other city operations, staff will recommend a reduced rate to be effective July 1, 2009.
- 2) Adopt Resolution No. 4193 entitled, "A Resolution of the Mayor and City Council of the City of Westminster rescinding Resolution No. 4128 and adopting Administrative Rules and Regulations for the City Water System, Pursuant to the Municipal Code" with a sunset date of July 1, 2009.

The motion carried by the following vote:

AYES: RICE, TA, FRY, QUACH
NOES: NONE
ABSTAIN: DIEP

5.3 Resolution No. 4202 - A Resolution of the Mayor and the City Council of the City of Westminster Providing for a Compensation Plan for Part-Time Employees of the City of Westminster. (110-02)

RECOMMENDATION: The Honorable Mayor Margie L. Rice recommends that the City Council adopt Resolution No. 4202 entitled, "A Resolution of the Mayor and City Council of the City of Westminster Providing for a Compensation Plan for Part-Time Employees of the City of Westminster."

Council Member Fry supports this item and feels that the Mayor's office will benefit from this position.

Council Member Quach supports the position on a temporary basis and recommended that it sunset. He also expressed that \$30/hr is too high for compensation.

Mayor Pro Tem Ta supports the position, but feels \$30/hr is too much. He suggested that the salary be decreased.

Council Member Diep stated his opposition to the current proposal because of the current economic situation.

Council Member Quach suggested that the position stay at the current rate of \$25/hr for ten hours a week.

Motion was made by Council Member Quach, and seconded by Council Member Fry to keep the position at \$25/hr for 10 hours a week and to have the City Manager re-evaluate the position in 90 days from January 1, 2009.

The motion carried by the following vote:

AYES: TA, FRY, QUACH, DIEP
NOES: RICE
ABSENT: NONE

Council Member Quach asked the Mayor why she voted no. She responded by saying that if she can't get the \$30/hr she wants the item to be pulled.

Substitute motion was made by Council Member Quach, and seconded by Council Member Diep to pull the item from the agenda and take no action. The motion carried by a 5-0 vote.

6. MATTERS FROM CITY MANAGER/EXECUTIVE DIRECTOR**6.1 Contractual plan check services for the new City/Chamber of Commerce building and scheduling a study session. (702-09)**

Motion was made by Council Member Quach, and seconded by Mayor Pro Tem Ta to:

- 1) Authorize a purchase order in an amount not to exceed \$15,000 for Melad & Associates to provide plan check and inspection services for the new City/Chamber of Commerce building.
- 2) Schedule a study session for a presentation on the progress of the project to start at 6:00 PM prior to the Council meeting on February 11, 2009.

The motion carried by a 5-0 vote.

6.2 Agreement to the transfer of 2008 Emergency Management Performance Grant Program (EMPG) funds. (502-15)

Darrell Nolta, Westminster resident spoke in support of the item and issues with emergency preparedness and the need for improvement in the County.

Motion was made by Council Member Quach, and seconded by Mayor Pro Tem Ta to:

- 1) Approve the agreement with the County of Orange for the 2008 Emergency Management Performance Grant Program and authorize the Chief of Police to execute the agreement on behalf of the City.
- 2) Approve a revenue increase to the fiscal year 2008-09 budget for the Office of Emergency Services for the Emergency Management Performance Grant Program in the amount of \$6,259; and
- 3) Approve a budget increase to General Police Services – Special Departmental Expenses in the amount of \$6,259 for costs associated with the Emergency Management Performance Program.

The motion carried by a 5-0 vote.

6.3 Award of Contract for Senior Center Men's and Women's Restroom ADA Upgrade at Community Services Building. (502-20)

Motion was made by Council Member Quach, and seconded by Mayor Pro Tem Ta to:

- 1) Approve the award of contract to the low qualified and responsive bidder in the amount of \$39,100.00 to Thomco Construction, Inc.; that all other bids be rejected; and that the City Manager be authorized to execute the contract on behalf of the City; and

- 2) Approve a revenue increase to the fiscal year 2008-09 budget for a grant from the County of Orange, County Supervisors Office in the amount of \$40,000; and
- 3) Approve a budget increase to the Capital Improvements Budget – Senior Center Annex Improvements, in the amount of \$40,000.

The motion carried by a 5-0 vote.

6.4 (City/Agency/Authority) Approval of the form of Bond Documents, Preliminary Official Statement and Bond Sale Documents for the 2009 Subordinate Tax Allocation Bonds (Police Facility). Authorizing the sale of Bonds. (107-07)

Ray Silver, City Manager informed the Council that staff is recommending that Page No. 4 of Agency Resolution No. 201, as amended Section 10, Subsection (ii) Executive Director Authorized to Establish Final Terms of Negotiated Sale of 2009 Bonds be amended to read as follows: “the final interest rates on various maturities of the 2009 Bonds, provided that such rates shall result in a true interest cost on the 2009 Bonds of not to exceed 9% (change is from 7.5% to 9%). It is recommended that the Chair and Agency Board approve Resolution No. 201 as amended to reflect the change.

Motion was made by Council Member Quach, and seconded by Mayor Pro Tem Ta to adopt Resolution No. 4204 as amended entitled, “A Resolution of the Mayor and City Council of the City of Westminster Approving the Issuance by the Westminster Redevelopment Agency of its Westminster Commercial Redevelopment Project No. 1 2009 Subordinate Tax Allocation Bonds (Police Facility).”

The motion carried by the following vote:

AYES: RICE, TA, FRY, QUACH, DIEP
NOES: NONE
ABSENT: NONE

Motion was made by Agency Member Quach, and seconded by Vice Chair Ta to adopt Resolution No. 201 entitled, “A Resolution of the Westminster Redevelopment Agency Approving the Issuance of its Westminster Commercial Redevelopment Project No. 1 2009 Subordinate Tax Allocation Bonds (Police Facility), Approving a Trust Indenture, an Official Statement and a Purchase Contract, Authorizing the Executive Director to Set the Final Terms of the Sale of the Bonds and Making Certain Findings and Determinations Relating Thereto.”

The motion carried by the following vote:

AYES: RICE, TA, FRY, QUACH, DIEP
NOES: NONE
ABSENT: NONE

Motion was made by Authority Member Quach, and seconded by Authority Vice Chair Ta to adopt Resolution No. 32 entitled, "A Resolution of the Board of Directors of the Westminster Public Financing Authority Approving the Purchase and Resale of Westminster Commercial Redevelopment Project No. 1 2009 Subordinate Tax Allocation Bonds (Police Facility), of the Westminster Redevelopment Agency, Approving a Purchase Contract and Approving Certain Other Matters Relating Thereto."

The motion carried by the following vote:

AYES: RICE, TA, FRY, QUACH, DIEP
NOES: NONE
ABSENT: NONE

6.5 (City/Agency) Award of Contract for Community Services Parking Lot Improvements. (502-03)

Lee Lieberg, Westminster resident asked what exactly would be done to the parking lot?

Ray Silver, City Manager responded by saying that the current landscaping would be removed and be replaced with a reduced amount of landscaping. The parking spaces would also be reconfigured within the lot which would increase the spaces by 84.

Motion was made Agency Member Quach, and seconded by Vice Chair Ta to:

- 1) Authorize a budget transfer in the amount of \$303,961.00 from the Redevelopment Fund Contingency to the Community Services Parking Lot Improvements CIP Project No. 18000-0191803.

The motion was carried by a 5-0 vote.

Motion was made by Council Member Quach, and seconded by Mayor Pro Tem Ta to:

- 1) Authorize an increase to Purchase Order No. 5302 for West Coast Arborists in the amount of \$27,000.00; and
- 2) Approve the Award of contract to the low qualified bidder, in the amount of \$237,314 to C.S. Legacy, and authorize the City Manager to execute the contract on behalf of the City.

The motion was carried by a 5-0 vote.

7. WRITTEN COMMUNICATIONS (Public) – None.

8. LEGISLATIVE ITEMS – None.

9. COMMISSION AND COMMITTEE ITEMS – None.

10. **COUNCIL/AGENCY ADJOURNMENT:** Mayor/Agency Chair Rice adjourned the meeting at 9:26 p.m.

Amanda Jensen, Assistant City Clerk/
Acting Agency Secretary